

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

FILE COPY

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IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

KERNON J. BAST,
RESPONDENT

FINAL DECISION AND ORDER
94 REB 163

LS9709254REB

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Kernon J. Bast
948 La Barge Road
Hudson, WI 54016

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Kernon J. Bast, ("Bast"), 948 La Barge Road, Hudson, WI 54016, is a real estate salesperson having State of Wisconsin license No. 27989, which was originally granted to Bast on February 11, 1988. Bast currently is working in the real estate business as a salesperson for Edina Realty, Inc., said employment commencing on or about February 11, 1988.

2. On or about August 14, 1993, Lee and Nancy Christianson listed their residential property located at 2037 50th Avenue, Baldwin, WI 54002 with Don Quam of Valley Real Estate of New Richmond, Wisconsin for a period of six months.

3. After August 14, and prior to August 25, 1993, Bast informed Christianson of a possible buyer.

4. On or about August 25, 1993, Lee and Nancy Christianson contacted Valley Real Estate to withdraw the listing contract as they did not wish to sell the property. Christiansons were informed said contract remained in effect but they were not required to sell the property.

5. During the course of that listing, Bast wrote a listing contract between Christianson and Edina Realty, Inc. and an Offer to Purchase, dated August 29, 1993, on behalf of Brian Gedatus. Bast submitted the offer directly to the sellers.

5. On or about October 8, 1993 the sale closed. Bast and Edina Realty received the entire commission for both listing and selling the property.

6. On or about April 7, 1994, by Court Order, the seller was ordered to pay a judgment to Valley Real Estate for commission owed from the proceeds of the sale due to the valid listing contract.

7. On or about May 17, 1994, Edina Realty and Respondent reimbursed the sellers in the amount of \$1,295.00 because of the commission dispute.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent Kernon J. Bast has violated:

Wis. Adm. Code RL 24.025 Licensees shall represent the interests of the principal as an agent. The responsibility owed the principal does not exempt the licensee from the obligation to treat fairly all parties to a transaction.

Wis. Adm. Code RL 24.13(5) Licensees shall not negotiate a sale of real estate directly with an owner if the licensee knows that such owner has an unexpired written contract in connection with such property which grants to another licensee an exclusive right to sell. All negotiations shall be conducted with the listing broker, and not with the owner, except with the

consent of the listing broker or where the absence of the listing broker, or other similar circumstances, reasonably compels direct negotiation with the owner.

Sec. 452.14(3)(I) Demonstrated incompetency to act as a broker, salesperson or time-share salesperson in a manner which safeguards the interests of the public.

and is therefore subject to disciplinary action against his license to practice as a real estate broker in the state of Wisconsin.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that Kernon J. Bast, real estate broker license No.27989 is hereby REPRIMANDED.

IT IS FURTHER ORDERED, that Kernon J. Bast, within six months of the date of this Order, *successfully complete the following course modules from the real estate salesperson's course at an educational institution approved by the Department of Regulation and Licensing:*

The four hour ethical real estate practices module (RL 25.03(3)(m),

and submit proof of the same in the form of verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that in the event Kernon J. Bast fails to comply with the required education as set forth above, or fails to verify the same to the Department of Regulation and Licensing as set forth above, then Kernon J. Bast's real estate broker's license shall be suspended, without further notice, hearing or order of the Board until he has complied with the terms of this Order.

IT IS FURTHER ORDERED, that Respondent Kernon J. Bast pay partial costs of this matter in the amount of \$300.00 within 30 days of the date of this order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent Kernon J. Bast fails to pay the \$300.00 costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Kernon J. Bast, his real estate broker's license shall be immediately suspended without further hearing and without further Order of the Board, and

said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing and his failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file 94 reb 163 be, and hereby is closed.

Dated this 25 day of SEPT, 1997⁹⁹.

WISCONSIN REAL ESTATE BOARD

By: 

LABASTFNOR.DOC

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
KERNON J. BAST	:	94 REB 163
RESPONDENT.	:	

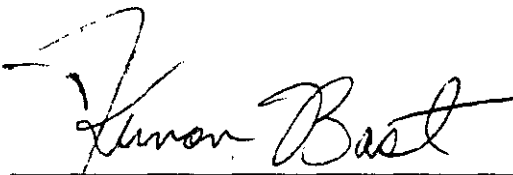
The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into for the purpose of resolving this matter known as investigative file 94 REB 163. Kernon J. Bast ("Respondent") consents to the resolution of this matter by this Stipulation and the attached Final Decision and Order.
2. Respondent understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.
3. Respondent has had the opportunity to consult with legal counsel regarding these matters and the legal implications of this Stipulation.
4. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.
5. With respect to the attached Final Decision and Order, Respondent neither admits nor denies the facts as set forth in the Findings of Fact, however, Respondent agrees that the Board may make the Findings of Fact and may reach the Conclusions set forth in the Conclusions of Law and may enter the Order attached hereto.
6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order. The matter shall then be returned to the Division of Enforcement for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

7. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

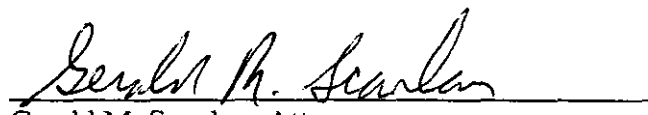
8. Respondent agrees that Complainant's attorney, Gerald M. Scanlan, may appear at any meeting of the Board with respect to the Stipulation and that his appearance is limited to statements in support of the Stipulation and to answer any questions the Board may have regarding the Stipulation. Respondent waives any right he may have to have notice of that meeting and to be present at the meeting of the Board.

9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.



Kermon J. Bast, Respondent

9-01-97
Date



Gerald M. Scanlan, Attorney
Division of Enforcement

9-8-97
Date

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Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On September 25, 1997, the Real Estate Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$300.00 Case #: LS9709254REB

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ 300.00

The costs and/or forfeitures are due: October 25, 1997

NAME: Kernon J. Bast LICENSE NUMBER: 27989

STREET ADDRESS: 948 La Barge Road

CITY: Hudson STATE: WI ZIP CODE: 54017

Check whether the payment is for costs or for a forfeiture or both:

X COSTS _____ FORFEITURE

Check whether the payment is for an individual license or an establishment license:

X INDIVIDUAL _____ ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

For Receipting Use Only

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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Committed to Equal Opportunity in Employment and Licensing+

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings Against

Kernon J. Bast,

AFFIDAVIT OF MAILING

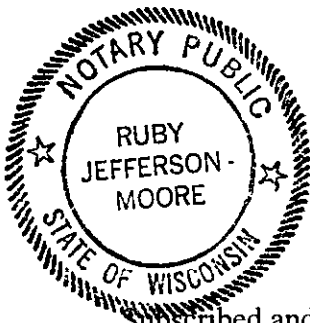
Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.
2. On September 30, 1997, I served the Final Decision and Order dated September 25, 1997, and Guidelines for Payment of Costs and/or Forfeitures, LS9709254REB, upon the Respondent Kernon J. Bast by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 159 558.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

Kernon J. Bast
948 La Barge Road
Hudson WI 54016



Kate Rotenberg
Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 30th day of September 1997.

Ruby Jefferson-Moore
Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each. And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN REAL ESTATE BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

September 30, 1997

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)